

## § 7.8

Notice need not be given if the employee stated in writing that he would agree to the determination of ownership which was in fact made.

### § 7.8 Employee's right of appeal.

An employee who is aggrieved by a determination of the Department may appeal to the Commissioner of Patents, pursuant to section 4(d) of Executive Order 10096, as amended by Executive Order 10930, and regulations issued thereunder, by filing a written appeal with the Commissioner, in duplicate, and a copy of the appeal with the Secretary within 30 days (or such longer period as the Commissioner may, for good cause, fix in any case) after receiving written notice of such determination.

## PART 8—DEMANDS FOR TESTIMONY OR RECORDS IN LEGAL PROCEEDINGS

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AUTHORITY: 5 U.S.C. 301; 5 U.S.C. 552; 20 U.S.C. 3474, unless otherwise noted.

SOURCE: 57 FR 34646, Aug. 5, 1992, unless otherwise noted.

### § 8.1 What is the scope and applicability of this part?

(a) Except as provided in paragraph (c) of this section, this part establishes the procedures to be followed when the Department or any employee of the Department receives a demand for—

- (1) Testimony by an employee concerning—
  - (i) Records contained in the files of the Department;
  - (ii) Information relating to records contained in the files of the Department; or
  - (iii) Information or records acquired or produced by the employee in the course of his or her official duties or because of the employee's official status; or

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(2) The production or disclosure of any information or records referred to in paragraph (a)(1) of this section.

(b) This part does not create any right or benefit, substantive or procedural, enforceable by any person against the Department.

(c) This part does not apply to—

(1) Any proceeding in which the United States is a party before an adjudicative authority;

(2) A demand for testimony or records made by either House of Congress or, to the extent of matter within its jurisdiction, any committee or subcommittee of Congress; or

(3) An appearance by an employee in his or her private capacity in a legal proceeding in which the employee's testimony does not relate to the mission or functions of the Department.

(Authority: 5 U.S.C. 301; 20 U.S.C. 3474)

[57 FR 34646, Aug. 5, 1992, as amended at 73 FR 27748, May 14, 2008]

### § 8.2 What definitions apply?

The following definitions apply to this part:

*Adjudicative authority* includes, but is not limited to—

(1) A court of law or other judicial forums; and

(2) Mediation, arbitration, or other forums for dispute resolution.

*Demand* includes a subpoena, subpoena duces tecum, request, order, or other notice for testimony or records arising in a legal proceeding.

*Department* means the U.S. Department of Education.

*Employee* means a current or former employee or official of the Department or of an advisory committee of the Department, including a special government employee, unless specifically provided otherwise in this part.

*Legal proceeding* means—

(1) A proceeding before an adjudicative authority;

(2) A legislative proceeding, except for a proceeding before either House of Congress or before any committee or subcommittee of Congress, to the extent of matter within the committee's or subcommittee's jurisdiction; or

(3) An administrative proceeding.

*Secretary* means the Secretary of Education or an official or employee of